

FOR MAIL SECTION

Federal Communications Commission

DA 00-1555

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Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations.  
(Moberly, Malta Bend and  
Chillicothe, Missouri)

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) MM Docket No. 00-129  
) RM-9909  
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**NOTICE OF PROPOSED RULE MAKING**

**Adopted: July 5, 2000****Released: July 14, 2000****Comment Date: September 5, 2000****Reply Date: September 20, 2000**

By the Chief, Allocations Branch

1. Before the Commission for consideration is a Petition for Rule Making filed on behalf of Best Broadcasting, Inc. ("Best"), licensee of Station KCSX, Moberly, Missouri. Best requests the substitution of Channel 247C2 for Channel 247C3 at Moberly, Missouri, substitution of Channel 280C3 for Channel 248C3 at Malta Bend, Missouri, and the substitution of Channel 273A for Channel 280C3 at Chillicothe, Missouri.<sup>1</sup> Best stated it will apply for and construct the station at Moberly if substitutions are made at Malta Bend and Chillicothe.

2. We believe the public interest would be served by proposing the substitution of Channel 247C2 for Channel 247C3 at Moberly, Missouri, with a modification of the license for Station KCSX to specify operation on Channel 247C2. In support of the requested upgrade, Best has stated that the substitution will result in a net gain in service to approximately 21,441 people in an area of 1,470 square kilometers. To accommodate the substitution at Moberly, we shall also propose the substitution of Channel 280C3 for Channel 248C3 at Malta Bend, Missouri, and modification of the license for Station KRLI and substitution of Channel 273A for Channel 280C3 at Chillicothe, Missouri, and modification of the license for Station KCHI. Best has provided a reimbursement agreement with Miles J. Carter, licensee of Station KRLI, Malta Bend, consenting to the proposed substitution. The licensee of Station KCHI, Chillicothe, has provided a statement consenting to the reclassification of the channel to specify operation as a Class A station and to the proposed transmitter site relocation.<sup>2</sup> Best has

<sup>1</sup> Best has reached an agreement with the licensees of Stations KRLI, Malta Bend and KCHI, Chillicothe, with regard to reimbursement and support of the proposal. Therefore, we will not issue an Order to Show Cause to Stations KRLI and KCHI but will serve them with a copy of the Notice of Proposed Rule Making.

<sup>2</sup> Although Station KCHI was modified to specify operation on Channel 280C3, the Station is currently operating

stated that a reimbursement agreement has been reached with the licensee for Station KCHI for the reasonable costs of changing channels and relocating the station's transmitter site should the Commission order the changes. We will also propose to modify Station KCSX's license to specify operation on the higher powered channel. In accordance with Section 1.420(g)(3), we will not accept competing expressions of interest in the use of Channel 247C2 at Moberly. A staff engineering analysis indicates that Channel 247C2 can be allotted to Moberly, Missouri, Channel 280C3 can be allotted to Malta Bend, Missouri, and Channel 273A can be allotted to Chillicothe, Missouri, in compliance with the Commission's minimum distance separation requirements at the requested sites.<sup>3</sup>

3. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the communities listed below, to read as follows:

Community	Channel No.	
	Present	Proposed
Moberly, Missouri	247C3, 284C, 288C2	247C2, 284C, 288C2
Malta Bend, Missouri	248C3	280C3
Chillicothe, Missouri	280C3	273A

4. IT IS FURTHER ORDERED, That the Secretary Shall Send, by Certified Mail, Return Receipt Requested, a copy of this Notice of Proposed Rule Making to the following:

Miles C. Carter  
KNZA, Inc.  
Station KRLI  
102 North Mason  
Carrollton, Missouri 64633

Steve C. Mickelson  
Daniel D. Leatherman  
Station KCHI  
P. O. Box 227  
Chillicothe, Missouri 64601

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by

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as a Class A facility. See MM Docket No. 93-167, 8 FCC Rcd 7068 (1993). The licensee has not constructed a Class C3 station at Chillicothe and has consented to the deletion of the Class C3 channel.

<sup>3</sup> The coordinates for Channel 247C2 at Moberly, MO are 39-27-41 and 92-21-03. The coordinates for Channel 280C3 at Malta Bend, Mo are 39-21-59 and 93-24-12. The coordinates for Channel 273A at Chillicothe, MO are 39-45-56 and 93-33-14.

reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before September 5, 2000, and reply comments on or before September 20, 2000, and are advised to read the Appendix for the proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, . D. C., 20554. Additionally, a copy of such comments should be served on the petitioner's counsel, as follows:

John R. Wilner  
Bryan Cave LLP  
700 13<sup>th</sup> Street, N. W., Suite 700  
Washington, D. C. 20005

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. See Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, February 9, 1981.

8. For further information concerning this proceeding contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no ex parte presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the commission or review by any court. An ex parte presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall

not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in this proceeding.

**FEDERAL COMMUNICATIONS COMMISSION**

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau

## APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204.(b) and 0.283 of the Commission's Rules, **IT IS PROPOSED TO AMEND** the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings Required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. Cut-off Procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules).

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. Comments and Reply Comments; Service. Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties, must be made in written comments reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. such comments and reply comments shall be accompanied by a certificate of service. (See Section 1.420(a), (b) and (c) of the Commission's Rules.) Comments should be filed with the Secretary, Federal Communications Commission, Washington, D. C. 20554.

5. Number of Copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public Inspection of Filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Reference Information Center at its headquarters, Washington, D. C.